THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.26200 of 2005

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Dated:12.12.2005

Between:

Mannam Bharathi, W/o. Visweswara Rao, HIndu,
R/o. Madhurapuri Colony, DilsukhanagarHyderabad, and others.

..... PETITIONERS

AND

The Revenue Divisional Officer, Kavali, Nellore District, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.26200 of 2005

ORDER:

The petitioners claim to be in occupation of land admeasuring Ac.46.42 guntas in Gottigundala Village, Kondapuram Mandal, Nellore District. The Mandal Revenue Officer initiated action under the A.P.Land Encroachment Act, 1905 (for short 'the Act'). Assailing the same, the petitioners initially filed W.P.No.12073 of 2005. This Court disposed of the same on 09.06.2005 directing the Mandal Revenue Officer to consider the explanation submitted by the petitioners. After considering the explanation, the Mandal Revenue Officer passed orders on 04.08.2005 against the petitioners ordering resumption of the land to the Government. Again, the petitioners challenged the same in W.P.No.19083 of 2005. This Court dismissed the writ petition giving liberty to the petitioners to file an appeal under Section 10 of the Act. The said order was also affirmed by the Division Bench of this Court in writ appeal bearing W.A.No.1831 of 2005, dated 05.10.2005. Therefore, the petitioners preferred an appeal before the first respondent and also filed an application for stay of the orders of the Mandal Revenue Officer. The same was rejected by the first respondent. Therefore, the present writ petition is filed praying for a direction to the first respondent to entertain the application for stay and pass appropriate orders.

The case was initially heard on 08.12.2005. This Court directed the learned Assistant Government Pleader for Revenue to get instructions in the matter. After getting instructions in the matter, the learned Assistant Government Pleader submits that the stay application filed by the petitioners was rejected by the first respondent on 19.11.2005 as the petitioners are not residents of Gottigundala Village and that they are staying outside the Village.

A reading of the order passed by the first respondent on 19.11.2005 would show that the first respondent passed orders after perusing the record. Though the first respondent did not give any reasons for rejecting the application for stay, the history of the case has been discussed and therefore, it cannot be said that the first respondent did not apply mind at all. This Court while disposing of the Writ Appeal filed by the petitioners, being W.A.No.1831 of 2005, ordered status quo for a period of one month to enable the petitioners to file an appeal. It only means that the petitioners were required to file an appeal within a period of one month from the date of dismissal of the Writ Appeal, i.e., 05.10.2005. The petitioners filed appeal before the Revenue Divisional Officer on 03.11.2005, and their stay application was rejected.

Though the Mandal Revenue Officer initiated action against the petitioners in April 2005, the proceedings could not reach their logical end. The petitioners have been approaching this Court at the stage of show cause notice, at the stage of orders passed by the Mandal Revenue Officer, presumably to stall the proceedings and continue in possession. In this factual foundation, this Court is not inclined to entertain the writ petition and issue orders. However, a direction can be issued to the first respondent to dispose of the appeal filed by the petitioners against the orders of the Mandal Revenue Officer, dated 04.08.2005, within a period of one week from today. The petitioners are given liberty to approach the first respondent on 14.12.2005 without seeking any adjournment. The first respondent, then, shall hear the petitioners or their duly authorized representative and pass orders within a week from today.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

12.12.2005

vs